

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
CLOSED SESSION AGENDA
Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, September 15, 2010
10:00 a.m.
Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: September 2, 2010

RE: Closed Session of the Board to be held on September 15, 2010

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISION OF ADMINISTRATIVE LAW JUDGE:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. CAL ENERGY OPERATING CORPORATION, 09-R3D2-3675 AND 3676
2. SMUD, 08-R2D1-4887 THROUGH 4889

ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ACRYLIC IMAGES, 09-R2D1-2493
2. AFM ENVIRONMENTAL, INC., 08-R2D4-3833
3. AG FORCE LLC, 09-R2D5-2993

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4. BENJAMIN ARROYO, JR. DBA BENJAMIN ARROYO FLC, 08-R2D4-4263
5. A-W ENGINEERING CO., INC., 10-R3D6-175
6. JEANNE BYRNE & STEVE PEDERSON DBA HIGH GROUND ORGANIC, 10-R6D7-1377
7. C.C. GRABER CO., 10-R3D3-1580 AND 1581
8. CAL-CRAFT INTERNATIONAL, INC., 10-R3D3-1738
9. CALIFORNIA HIGHWAY PATROL, 10-R2D4-0555
10. CALIFORNIA MILLWORK, INC., 10-R6D2-1311 THROUGH 1315
11. CAMINO REAL FOODS, INC. DBA CAMINO REAL KITCHENS, 10-R4D2-1088 THROUGH 1090
12. CARLOS GOMEZ FARM, 09-R4D2-4222 THROUGH 4227
13. CENTRAL PURCHASING, INC. DBA HARBOR FREIGHT TOOLS #33, 10-R4D2-0108
14. COBLIFIL, INC., 10-R3D6-1556 AND 1557
15. COASTAL HARVESTING, INC., 10-R3D3-2141
16. CRUX SUBSURFACE, INC., 09-R5D1-3146
17. CYCLE GEAR, 10-R3D1-1602
18. DALE STICKNEY CONSTR., INC. DBA DSCI CONSTRUCTION, 09-R2D3-2467
19. DEAL MECHANICAL, INC., 10-R2D1-1727
20. DEEP KLEEN, INC., 10-R3D3-1827
21. DRILL TECH DRILLING AND SHORING, INC., 10-R5D1-0363
22. FCI CONSTRUCTORS, INC., 09-R5D1-1247
23. FOOTHILL PATIO, 08-R2D4-4084 THROUGH 4086
24. RAYMUNDO M. GARCIA DBA GARCIA FARM LABOR SERVICES, 09-R2D4-2363
25. GLENDALE IRON, INC., 09-R6D2-3848 THROUGH 3852

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26. H & J FARM LABOR CONTRACTOR, 09-R2D4-2496
27. HALL MANAGEMENT CORPORATION, 09-R2D5-2839
28. HAPPY BOY FARMS, 09-R2D5-3059
29. HENKELS & McCOY, INC., 10-R3D6-0289
30. INTRAVALIA RACK & SAND, INC., 07-R3D3-3253 THROUGH 3260
31. IRWINDALE CAR WASH, 09-R6D5-4145
32. J & J MARINE ACQUISITION LLC DBA NEWPORT HARBOR SHIPYARD, 10-R3D1-2040 THROUGH 2045
33. JESSE REYES LABOR CONTRACTING, 08-R2D4-3194 AND 3195
34. KEN THOMPSON, INC., 09-R3D3-1639
35. LEOPOLDO'S FARM SERVICE, INC., 09-R2D5-2908 AND 2909
36. LOS ANGELES GALVANIZING CO., 10-R4D2-0445 AND 0446
37. MADERA COUNTY ROAD DEPT., 09-R2D5-3058
38. MINI-SKOOL EARLY LEARNING CENTERS DBA THE PHOENIX SCHOOLS, 09-R2D1-2359
39. MVP MICRO, INC., 10-R3D1-0357 AND 0358
40. ROSA MONDRAGON FLC #5603, 09-R2D4-2876 AND 2877
41. MOONLIGHT PACKING CORP., 10-R2D5-2134
42. EVANGELINE NICOLAS, 10-R3D6-1004
43. NORTH KERN STATE PRISON, 09-R4D3-4070
44. OAKHURST INDUSTRIES DBA FREUND BAKING, 09-R6D2-3741 THROUGH 3748
45. PCL INDUSTRIAL SERVICES, 09-R2D5-2579
46. PLACEMENT PROS, 09-R2D5-2468
47. POWER BUILDERS, 10-R3D1-1550 AND 1551

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48. PREMIER MUSHROOMS LP, 09-R2D3-0932 THROUGH 0935
49. PROGRESSIVE CONVERTING, INC., 10-R3D6-0676 THROUGH 0679
50. QUAIL H. FARMS LLC, 08-R2D4-3139 AND 3140
51. SALINAS FARM LABOR CONTRACTOR, INC., 08-R2D4-4260
52. SALINAS FARM LABOR CONTRACTOR, INC., 08-R2D4-4261
53. SANITATION DISTRICTS OF LOS ANGELES COUNTY, 09-R4D2-2699 AND 2700
54. SELMA PUBLIC WORKS DEPARTMENT, 10-R2D5-0276 AND 0277
55. SETTON PISTACHIO, 09-R2D5-4204 THROUGH 4206
56. SETTON PISTACHIO OF TERRA BELLA, INC., 09-R2D5-3483 THROUGH 3485
57. SENECA FOODS CORPORATION, 07-R2D4-3434 AND 3435
58. STATE OF CALIFORNIA DEPARTMENT OF FORESTRY & FIRE, 09-R4D3-4067 AND 4068
59. STATER BROS. MARKETS – STORE #112, 10-R3D3-1903
60. STRAIGHT LINE MASONRY, 09-R2D1-1507
61. TABASCO INTERIOR CONSTRUCTION, 09-R4D3-4169 AND 4170
62. TAFT ELECTRIC COMPANY, 10-R4D3-1612
63. TURNER CONSTR. CO., 10-R2D1-1796
64. USF REDDAWAY DBA REDDAWAY, 10-R3D3-1851
65. VICTORY DESIGN, INC. DBA DESIGNING MANUFACTURING INSTALLATION, 08-R2D1-2936 AND 2937
66. WESTSIDE SELF SERVICE AUTO DISMANTLERS, INC., 10-R2D5-0352 THROUGH 0354
67. WHO'S FASHION, INC., 09-R6D5-4184 THROUGH 4190

ORDER DISMISSING APPEAL:

(Written order issued by an Administrative Law Judge disposing of an Employer appeal.)

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1. HOLE IN THE WALL, CABINETS, 09-R2D1-0163 AND 0164

ORDER GRANTING LEAVE TO FILE LATE APPEAL:

1. ARRAY BUILDERS, 10-R3D6-2658 AND 2659

ORDERS DENYING LEAVE TO FILE LATE APPEALS:

1. CINGULAR WIRELESS PCS LLC, 10-R4D3-9185
2. KFC CORPORATION, 10-R3D5-9186

STIPULATIONS:

1. SJR FRAMING, 07-R2D5-2406
2. AJ BORBA HOLSTEINS, 08-R2D4-2710 AND 2711
3. EMPLOYER RESOURCE MANAGEMENT CO., 07-R2D3-3561

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

1. A.L. GILBERT COMPANY, 08-R5D1-1646 AND 1647
2. JAGUAR FARM LABOR, 09-R2D4-1135 THROUGH 1138
3. SHIMMICK-OBAYASHI, 08-R3D3-5023 THROUGH 5025
4. MARTIN J. SOLIS DBA SOLIS FARM LABOR, 08-R2D1-3415

DENIALS OF PETITIONS FOR RECONSIDERATION (DRAFTS):

1. BARBEGELATA FARMS, 09-R2D4-2083
2. EMERSON RUSSELL MAINTENANCE COMPANY, 08-R1D4-4166 AND 4167
3. SONORA PALLETS, 08-R6D5-3176 THROUGH 3182

ORDER ON REMAND:

1. SUPERIOR ALMOND HULLING LP, 09-R2D5-0771 AND 0772

DECISIONS AFTER RECONSIDERATION (DRAFTS):

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(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

1. AARON METALS COMPANY, INC., 09-R1D4-2137 AND 2138
2. AC TRANSIT, 08-R1D4-0135
3. AGWOOD MILL & LUMBER, INC., 08-R1D5-1068
4. VERNON MELVIN ANTONSEN & COLLEEN K. ANTONSEN, INDIVIDUALLY
DBA ANTONSEN CONSTRUCTION, 06-R2D3-1272
5. ANNING-JOHNSON COMPANY, 06-R1D3-1976
6. AVESON EDUCATIONAL COOPERATIVE, 09-R4D2-0337
7. BART, 03-R1D1-5170
8. BIMBO BAKERIES USA, 05-R6D2-856 AND 857
9. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
10. BOBERG ENGINEERING & CONTRACTING, INC., 06-R3D3-4963
11. BRUNTON ENTERPRISES, INC. DBA PLAS-TAL MFG. CO., 08-R3D3-3445
12. BRUNTON ENTERPRISES DBA PLAS-TAL MFG. CO., 09-R6D2-2239
THROUGH 2241
13. BURTON L. SILVA FARMS, 09-R1D2-1498
14. C & M FINE PACK, INC. 07-R6D2-4149 THROUGH 4155
15. C.C. MYERS, INC., 08-R1D1-952 THROUGH 955
16. CA CORRECTIONS, 08-R2D5-0975 THROUGH 0978
17. CA RASMUSSEN, INC., 08-R4D5-219 AND 220
18. CALIFORNIA INTERSTATE EXPRESS, 09-R4D2-3460
19. CELTIC SCAFFOLDING, INC., 08-R1D1-1469 THROUGH 1471
20. CLINE CELLARS, INC., 08-R1D5-2946

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21. CJI PROCESS SYSTEMS, 09-R6D2-1333 THROUGH 1336
22. CNL ROOFING COMPANY, 08-R1D2-1692 AND 1693
23. COMMERCIAL METAL FORMING, 09-R3D1-1592
24. CORE GENERAL CONTRACTOR, INC. DBA CORE BUILDERS, 08-R1D2-1379
25. CORONADO IRRIGATION SERVICES, 09-R4D2-0385 THROUGH 0387
26. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
27. DESIGN BUILDERS, INC., 08-R4D4-1901
28. JOAQUIN DUARTE DBA PROFESSIONAL TREE SERVICE, 09-R3D3-1111
29. DUKE PACIFIC, INC., 06-R3D3-5175 THROUGH 5177
30. DUKE PACIFIC, INC., 08-R3D3-574
31. DUININCK BROS., INC., 06-R4D3-2871
32. DYNALECTRIC, 03-R1D1-4101
33. E. C. U., INC., 09-R3D5-1094 AND 1095
34. EPSILON ELECTRONICS, INC. DBA POWER ACOUSTIK ELECTRONICS, 09-R6D2-2325 THROUGH 2332
35. ESTENSON LOGISTICS LLC 05-R1D4-1755 AND 1756
36. EZ MIX, INC., 08-R4D3-1898
37. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
38. FORTUNA IRON WORKS 06-R2D3-4222
39. FREAS PLASTERING CO., INC., 08-R1D1-1188 AND 09-R1D1-2568
40. G.T. ALDERMAN, INC., 05-R4D3-3513
41. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
42. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
43. GLASS PAK, 03-R2D2-750 AND 751

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44. GOLDEN WEST INDUSTRIES, INC., 08-R3D2-3930
45. GRISWOLD INDUSTRIES, 09-R6D2-0981 THROUGH 0984
46. HARBOR ORNAMENTAL, INC., 09-R3D5-2086
47. HB PARKCO, 07-R4D2-1730 AND 1731
48. HELPMATES STAFFING SERVICES, 05-R3D3-2239
49. HELM & SONS, INC., DBA HELM & SONS AMUSEMENTS, 08-R3D3-3513
50. THE HERRICK CORP., 07-R3D1-495
51. HUSSMAN CORPORATION, 03-R3D1-2939
52. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
53. INTERNATIONAL ALUMINUM CORPORATION, 09-R6D2-1185
54. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
55. JENSEN PRECAST, 05-R2D1-2377
56. JOHN LAING HOMES, 04-R3D1-194 AND 195
57. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
58. JT WINDOWS, INC., 09-R6D2-0693 THROUGH 0698
59. KELLY SERVICES, INC., 06-R1D2-1024
60. KINDER MORGAN ENERGY PARTNERS, LP., 05-R5D1-2013 AND 2014
61. LA MINA CANTINA, 09-R2D5-0039
62. LAND O' LAKES PURINA FEED LLC, 08-R2D4-1843 AND 1844
63. LIQUIVISION TECHNOLOGY, INC., 08-R2D1-1712 THROUGH 1714
64. LION RAISINS, INC., 08-R2D5-2253 AND 2254
65. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
66. LOS ANGELES, COUNTY OF, DEPT. OF PUBLIC WORKS, 07-R4D2-2540

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67. MARINE TERMINALS, 08-08-R6D2-1920
68. MELMARC PRODUCTS, INC., 09-R3D1-2878
69. MICHELS CORP. DBA MICHELS PIPELINE CONSTRUCTION, 07-R5D1-4274
70. NEWMAN FLANGE & FITTING COMPANY, 07-R2D4-2581 THROUGH 2583
71. NIBBI BROTHERS ASSOCIATES, INC., 07-R1D1-2494
72. PARAMOUNT FARMS, KING FACILITY, 09-R4D3-0864
73. PARKER-HANNIFIN CORPORATION, 08-R2D4-2508
74. PERFORMANCE CONTRACTING GROUP DBA PERFORMANCE
CONTRACTING, INC., 08-R2D1-0025 AND 0026
75. POUK & STEINLE, INC., 09-R3D3-0491
76. PUSD ALEXANDER HAMILTON ELEMENTARY SCHOOL, 09-R4D2-0784
77. R.A. CAMPBELL, INC., 09-R6D2-1209 THROUGH 1211
78. R & L BROSAMER, INC., 03-R1D5-4832
79. RIEZEBOS CONSTRUCTION, INC., 08-R2D5-1730
80. JOSH AND CARRIE SALAZAR DBA CJ MANUFACTURING, 09-R6D2-1710
81. SAN FRANCISCO FIRE DEPARTMENT, 09-R1D1-0655
82. SANTA PAULA HARVESTING, 09-R4D3-0510 THROUGH 0514
83. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
84. SELECT REMEDY, 08-R2D5-0048 THROUGH 0050
85. SHEEDY DRAYAGE COMPANY, 06-R1D4-3053 THROUGH 3055
86. MARTIN J. SOLIS DBA SOLIS FARM LABOR CONTRACTOR, 08-R2D1-3414
THROUGH 3418
87. STACY & WITBECK, INC., 05-R1D1-1142
88. STENDERUP AG PARTNERS, 09-R6D2-2111 AND 2112

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- 89. SUNOPTA FRUIT GROUP, 09-R3D1-9245
- 90. SUNRISE GROWERES FROZ SUN FOODS, 09-R4D3-2850
- 91. TEICHERT & SON, INC., A CORPORATION DBA TEICHERT AGGREGATES, 04-R5D2-850 AND 851
- 92. TEICHERT & SON, INC. DBA TEICHERT CONSTRUCTION, 05-R2D4-2650 AND 2651
- 93. TEICHERT AGGREGATES, 04-R5D1-2982
- 94. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
- 95. UNITED PARCEL SERVICE, 07-R3D3-3322
- 96. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
- 97. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802
- 98. WINCHESTER CONSTRUCTION, 08-R4D3-4709 AND 4710

PENDING LITIGATION:

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

- 1. JERLANE, 37-2007-00056381-CU-WM-NC (01-4344/4345)
- 2. JERLANE, 37-2009-00059323-CU-WM-NC (08-1733)
- 3. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
- 4. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
- 5. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (DOSH v. OSHAB) (00-440)
- 6. SHIMMICK CONSTRUCTION CO., 34-2008-80000121-CU-WM-GDS (06-1136)
- 7. XL CONSTRUCTION, 34-2009-80000300 (08- 1191/1193)

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8. M.C.M. CONSTRUCTION, INC., 34-2009-80000378 (09-9230)
9. WEBCOR CONSTRUCTION LP dba WEBCOR BUILDERS, 34-2009-80000384 (08-R1D2-2499/2500)
10. WEBCOR BUILDER, INC., 34-2010-80000439 (06-R1D1-3030/3032)
11. WPCS INTERNATIONAL SUISUN CITY, INC., 34-2010-80000430 (09- 9280/9281)
12. JC CONSTRUCTION, BS124990 (09-9265)
13. FRESNO PRODUCE, CO., INC., 10CECG02394 (10-R6D1-9064)
14. MISSION FLAVORS AND FRAGRANCE, INC., 34-2010-80000599 (05-R6D2-1139)
15. GRANITE CONSTRUCTION CO., INC., (DOSH V OSHAB) 34-2010-800006047 (07-R5D1-3611)
16. CLARK PACIFIC, A GENERAL CALIFORNIA PARTNERSHIP, 34-2010-80000640 (08-R2D1-0027 THROUGH 0030)

COURT OF APPEAL

1. SOUTHERN CALIFORNIA EDISON, B223828 (BS 119297) (08-9062)
2. HARRIS CONSTRUCTION COMPANY, INC., C060578 (07-CS00518) (05-3914)
*OSHAB appealed Court's judgment vacating the DAR.
3. HARRIS CONSTRUCTION COMPANY, INC., C065265 (07CS00518) (05-3914)
*WORKSAFE, INC. appealed Court's judgment denying its motion for attorney Fees.

OTHER LEGAL MATTERS

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

PERSONNEL *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.